

**Introduced by Senator Correa**

February 14, 2013

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An act to amend Sections 23152 and 23153 of the Vehicle Code, relating to vehicles.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 289, as introduced, Correa. Vehicles: driving under the influence: drugs.

Existing law prohibits a person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, or who has 0.08% or more, by weight, of alcohol in his or her blood, or who is addicted to the use of any drug, to drive a vehicle. Existing law also makes it unlawful to drive under the influence and cause bodily injury to another person.

This bill would make it unlawful for a person to drive a motor vehicle if his or her blood contains any detectable amount of a drug classified in Schedules I, II, III, or IV of the California Uniform Controlled Substance Act, unless the drug was consumed in accordance with a valid prescription issued to the person by a licensed health care practitioner. By expanding the scope of the crime of driving under the influence of a drug, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 23152 of the Vehicle Code, as amended by Section 2 of Chapter 753 of the Statutes of 2012, is amended to read:

23152. (a) It is unlawful for a person who is under the influence of any alcoholic beverage to drive a vehicle.

(b) It is unlawful for a person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

For purposes of this article and Section 34501.16, percent, by weight, of alcohol in a person's blood is based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(c) It is unlawful for a person who is addicted to the use of any drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.

(d) It is unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined in Section 15210.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(e) It is unlawful for a person who is under the influence of any drug to drive a vehicle.

(f) *It is unlawful for a person to drive a vehicle if his or her blood contains any detectable amount of a drug classified in Schedule I, II, III, or IV under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code), unless the drug was consumed in*

1 *accordance with a valid prescription issued to the person by a*  
2 *licensed health care practitioner.*

3 ~~(f)~~

4 (g) It is unlawful for a person who is under the combined  
5 influence of any alcoholic beverage and drug to drive a vehicle.

6 ~~(g)~~

7 (h) This section shall become operative on January 1, 2014.

8 SEC. 2. Section 23153 of the Vehicle Code, as amended by  
9 Section 5 of Chapter 753 of the Statutes of 2012, is amended to  
10 read:

11 23153. (a) It is unlawful for a person, while under the influence  
12 of any alcoholic beverage to drive a vehicle and concurrently do  
13 any act forbidden by law, or neglect any duty imposed by law in  
14 driving the vehicle, which act or neglect proximately causes bodily  
15 injury to any person other than the driver.

16 (b) It is unlawful for a person, while having 0.08 percent or  
17 more, by weight, of alcohol in his or her blood to drive a vehicle  
18 and concurrently do any act forbidden by law, or neglect any duty  
19 imposed by law in driving the vehicle, which act or neglect  
20 proximately causes bodily injury to any person other than the  
21 driver.

22 In any prosecution under this subdivision, it is a rebuttable  
23 presumption that the person had 0.08 percent or more, by weight,  
24 of alcohol in his or her blood at the time of driving the vehicle if  
25 the person had 0.08 percent or more, by weight, of alcohol in his  
26 or her blood at the time of the performance of a chemical test  
27 within three hours after driving.

28 (c) In proving the person neglected any duty imposed by law  
29 in driving the vehicle, it is not necessary to prove that any specific  
30 section of this code was violated.

31 (d) It is unlawful for a person, while having 0.04 percent or  
32 more, by weight, of alcohol in his or her blood to drive a  
33 commercial motor vehicle, as defined in Section 15210, and  
34 concurrently to do any act forbidden by law or neglect any duty  
35 imposed by law in driving the vehicle, which act or neglect  
36 proximately causes bodily injury to any person other than the  
37 driver.

38 In any prosecution under this subdivision, it is a rebuttable  
39 presumption that the person had 0.04 percent or more, by weight,  
40 of alcohol in his or her blood at the time of driving the vehicle if

1 the person had 0.04 percent or more, by weight, of alcohol in his  
2 or her blood at the time of performance of a chemical test within  
3 three hours after driving.

4 (e) It is unlawful for a person, while under the influence of any  
5 drug, to drive a vehicle and concurrently do any act forbidden by  
6 law, or neglect any duty imposed by law in driving the vehicle,  
7 which act or neglect proximately causes bodily injury to any person  
8 other than the driver.

9 *(f) It is unlawful for a person to drive a vehicle if his or her*  
10 *blood contains any detectable amount of a drug classified in*  
11 *Schedule I, II, III, or IV under the California Uniform Controlled*  
12 *Substances Act (Division 10 (commencing with Section 11000) of*  
13 *the Health and Safety Code), unless the drug was consumed in*  
14 *accordance with a valid prescription issued to the person by a*  
15 *licensed health care practitioner.*

16 ~~(f)~~

17 (g) It is unlawful for a person, while under the combined  
18 influence of any alcoholic beverage and drug, to drive a vehicle  
19 and concurrently do any act forbidden by law, or neglect any duty  
20 imposed by law in driving the vehicle, which act or neglect  
21 proximately causes bodily injury to any person other than the  
22 driver.

23 ~~(g)~~

24 (h) This section shall become operative on January 1, 2014.

25 SEC. 3. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution because  
27 the only costs that may be incurred by a local agency or school  
28 district will be incurred because this act creates a new crime or  
29 infraction, eliminates a crime or infraction, or changes the penalty  
30 for a crime or infraction, within the meaning of Section 17556 of  
31 the Government Code, or changes the definition of a crime within  
32 the meaning of Section 6 of Article XIII B of the California  
33 Constitution.